

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	<u>DRAFT ORDER</u>
	:	<u>REORGANIZING</u>
	:	<u>PLAINTIFFS</u>
	:	<u>COMMITTEES</u>
IN RE: SEPTEMBER 11, 2001 LITIGATION	:	
	:	21 MC 97 (AKH)
	:	21 MC 101 (AKH)
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ALVIN K. HELLERSTEIN, UNITED STATES DISTRICT JUDGE:

WHEREAS, on October 8, 2002, this Court “So Ordered” Plaintiffs’ and Defendants’ Joint Status Report Regarding Formation of Committees and Subcommittees (the “2002 Order”); and

WHEREAS, the 2002 Order provisionally established a committee structure for this consolidated action; and

WHEREAS, it has become advisable to subdivide the groupings of cases and rearrange the committee structure to facilitate the efficient prosecution of the underlying actions; and

WHEREAS, this Order supersedes Part I of the 2002 Order;

NOW, THEREFORE, it is hereby ORDERED as follows:

Part I

A. NEW MASTER DOCKET NUMBER/TRANSFER OF ACTIONS

1. A new Master Docket, 21 MC 101 (AKH) with the caption “In Re September 11 Property Damage and Business Loss Litigation” is hereby created.

2. The following cases, currently pending as part of 21 MC 97, are transferred to the new 21 MC 101 (AKH) Master Docket:

02 Civ. 2987 *World Trade Farmers Market, et al. v. United Airlines, Inc., et al.*

02 Civ. 7198 *Mayore Estates LLC and 80 Lafayette Associates LLC v. Port Authority of New York and New Jersey*

02 Civ. 10052 *Serko & Simon LLP v. Port Authority of New York and New Jersey*

03 Civ. 0131 *Certain Underwriters at Lloyd's, et al. v. AMR Corp, et al.*

03 Civ. 6925 *Barclay Dwyer Co., Inc., et al. v. Minoru Yamasaki Associates, et al.*

04 Civ. 4577 *MVN Associates, Inc., et al. v. United Airlines, Inc., et al.*

04 Civ. 5020 *Karoon Capital Management v. Minoru Yamasaki Associates, et al.*

04 Civ. 5021 *Tower Computer Services, Inc. v. Minoru Yamasaki Associates, et al.*

04 Civ. 5022 *Wall Street Realty Capital, Inc. v. Minoru Yamasaki Associates, et al.*

04 Civ. 5023 *Koudis International v. Minoru Yamasaki Associates, et al.*

04 Civ. 5024 *Barclay Dwyer Co. v. Minoru Yamasaki Associates, et al.*

04 Civ. 5025 *N.S. Windows LLC. v. Minoru Yamasaki Associates, et al.*

04 Civ. 6848 *American Alternative Insurance Corp., et al. v. AMR Corp., et al.*

04 Civ. 7136 *Barclay Dwyer Co., et al. v. AMR Corp., et al.*

04 Civ. 7199 *QBE International Insurance LTD, et al. v. AMR Corp., et al.*

04 Civ. 7225 *Mayore Estates LLC and 80 Lafayette Associates LLC v. AMR Corp., et al.*

04 Civ. 7231 *Industrial Risk Insurers v. AMR Corp., et al.*

04 Civ. 7234 *Industrial Risk Insurers v. AMR Corp., et al.*

04 Civ. 7238 *Assurances Generales de France IART v. AMR Corp., et al.*

04 Civ. 7240 *Woburn Insurance LTD v. AMR Corp., et al.*

04 Civ. 7241 *Great Lakes Reinsurance UK PLC v. AMR Corp., et al.*

04 Civ. 7244 *Underwriters at Lloyd's, et al. v. AMR Corp., et al.*

04 Civ. 7246 *American Reinsurance Company v. AMR Corp., et al.*

04 Civ. 7248 *AXA Re, et al. v. AMR Corp., et al.*

04 Civ. 7272 *Aegis Insurance Servs., Inc., et al. v. 7 World Trade Center Co., L.P., et al.*

- 04 Civ. 7294 *et al.*
Munich Reinsurance Company UK General Branch, et al. v. AMR Corp., et al.
- 04 Civ. 7299 *AXA Corporate Solutions, et al. v. AMR Corp., et al.*
- 04 Civ. 7318 *Cantor Fitzgerald & Co., et al. v. American Airlines, Inc., et al.*

B. REORGANIZATION OF PLAINTIFFS' COMMITTEES

I. Committee Structure, Composition and Membership/Liaison Counsel

4. The following Plaintiffs' Committees are hereby established:

(a) the In re September 11, 2001 Litigation Personal Injury and Wrongful Death Plaintiffs' Executive Committee (the "PI/WD Plaintiffs' Executive Committee"), which shall be the executive committee for all cases consolidated in 21 MC 97 (the "PI/WD Cases"); and

(b) the In Re September 11 Litigation Property Damage and Business Loss Plaintiffs' Executive Committee (the "PD/BL Plaintiffs' Executive Committee"), which shall be the executive committee for all cases consolidated in 21 MC 101 (the "PD/BL Cases").

5. **PI/WD Plaintiffs' Executive Committee.** The following law firms shall constitute the PI/WD Plaintiffs' Executive Committee:

Kreindler & Kreindler 100 Park Avenue New York, New York 10017	Baumeister & Samuels, P.C. One Exchange Plaza New York, New York 10006
Baum, Hedlund, Aristei, Guilford & Schiavo 12100 Wilshire Boulevard, #950 Los Angeles, California 90025	Speiser, Krause, Nolan & Granito, P.C. Two Grand Central Tower, 34th Floor 140 East 45th Street New York, New York 10017
Hanly & Conroy, LLP 415 Madison Avenue	

New York, New York 10017	
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6. **PI/WD Plaintiffs' Liaison Counsel.** Mark S. Moller, a member of the firm Kreindler & Kreindler, shall serve as the PI/WD Plaintiffs' Liaison Counsel.

7. **PD/BL Plaintiffs' Executive Committee.** The following law firms shall constitute the PD/BL Plaintiffs' Executive Committee:

Clifford Law Offices 120 North LaSalle Street Chicago, Illinois 60602 - and - Gregory P. Joseph Law Offices LLC 805 Third Avenue, 31 Floor New York, New York 10022	Zelle Hofmann Voelbel Mason & Gette LLP 1201 Main Street, Suite 3000 Dallas, Texas 75202
Warden Triplett Grier Building 40 Corporate Woods 9401 Indian Creek Pkwy, Suite 1100 Overland Park, Kansas 66210	

8. **PD/BL Plaintiffs' Liaison Counsel.** Robert A. Clifford, a member of the firm Clifford Law Offices, shall serve as the PD/BL Plaintiffs' Liaison Counsel.

II. Responsibilities Of Executive Committees

9. The PI/WD Plaintiffs' Executive Committee and the PD/BL Plaintiffs' Executive Committee (together, the "Plaintiffs' Executive Committees") each shall be responsible for coordination of the overall management and conduct of the actions subsumed under 21 MC 97 and 21 MC 101, respectively:

- a. preparing and serving plaintiffs' interrogatories, requests for admission, document requests, deposition notices and other discovery;
- b. preparing and serving answers and responses to defendants' discovery;
- c. preparing, serving, filing and arguing liability motions and opposing defendants' notices;
- d. preparing for and conducting depositions;

- e. entering into fact stipulations with the defendants;
- f. consulting and hiring expert consultants and witnesses;
- g. acting as spokespersons at pretrial conferences and hearings; and
- h. otherwise coordinating the work of all plaintiffs' counsel and performing such other functions as necessary and appropriate or as may be authorized or requested by the Court.

10. The Plaintiffs' Executive Committees shall be responsible for the coordination of settlement-related strategy and discussions relating their respective cases; provided, however, that nothing in the foregoing clause shall preclude any party from settling or entering into settlement discussions independent of Plaintiffs' Executive Committee.

11. The Plaintiffs' Executive Committees shall cooperate with each other, and with Executive Committees formed in other September 11, 2001 cases, to avoid duplication and to promote efficiency and economy in discharging their responsibilities.

12. The Plaintiffs' respective Executive Committees may from time to time designate subcommittees and assign responsibilities to the members of such subcommittees as necessary or appropriate to enable the litigation to progress efficiently and effectively.

13. The Plaintiffs' Executive Committee may make assessments for litigation costs and expenses upon the plaintiffs they respectively represent. Such assessments are to be deposited into fund accounts maintained by the respective Liaison Counsel. In the event of a disagreement between a Plaintiffs' Executive Committee and any plaintiff with respect to the amount or propriety of any such assessment, the matter shall be submitted

to the Court for resolution outside the presence of non-affected counsel. A reasonable fee for the services of the Liaison Counsel and related expenses shall be deemed a litigation expense payable respectively out of such funds, subject to the approval of the Court.

III. Responsibilities Of Liaison Counsel

14. Liaison Counsel shall have the following responsibilities:
 - a. acting as the spokespersons for their respective Plaintiffs' Executive Committees with;
 - b. serving as Liaison between the PI/WD Plaintiffs' Executive Committee and PD/BL Plaintiffs' Executive Committee and with the Executive Committees of other 9/11 cases;
 - c. serving as Liaison between the Court and the Plaintiffs' Executive Committees with respect to all issues for which those committees are responsible;
 - d. serving as Liaison between the defendants and the Plaintiffs' Executive Committees with respect to all issues for which those committees are responsible;
 - e. maintaining all files and making them available for inspection and copying by any plaintiff's attorney;
 - f. maintaining a current service list of all plaintiffs' and defendants' attorneys;
 - g. coordinating work assignments among the Plaintiffs' Executive Committees in such a manner as to promote the orderly and efficient conduct of the Litigation, and to avoid unnecessary duplication and unproductive effort; and
 - h. coordinating the allocation of costs and expenses between the Plaintiffs' Executive Committees.
15. Any disagreements between Liaison Counsel or between Liaison Counsel and members of the Plaintiffs' Executive Committee they represent may be brought to the Court for resolution outside the presence of non-affected counsel.

C. DEFENDANT’S EXECUTIVE COMMITTEES

16. Pursuant to the Court’s direction, the defendants have formed a Defendants’ Executive Committee (“DEC”) comprised of the following defendants, each of which shall be represented on the DEC by the following representatives (and alternate representatives):

Defendant	Representative	Alternate Representative
United Airlines	Michael R. Feagley (Mayer, Brown, Rowe & Maw)	Jeffrey J. Ellis (Quirk & Bakalor P.C.)
American Airlines	Roger E. Podesta (Debevoise & Plimpton)	Mark P. Goodman (Debevoise & Plimpton)
Argenbright Security	Charles E. Koob (Simpson Thatcher & Bartlett)	Joseph F. Wayland (Simpson Thatcher & Bartlett)
Globe Aviation Serv. Corp.	James P. Connors (Jones Hirsch Connors & Bull P.C.)	Gary W. Westerberg (Lord Bissell Brook)
Huntleigh USA Corp.	H. Lee Godfrey (Susman Godfrey L.L.P.)	Edward J. McMurrer (Mendes & Mount)
Port Authority of NY and NJ	Keith E. Harris (Port Authority of NY and NJ)	Gerald S. Crowley (Port Authority of NY and NJ)
MassPort	Mark Wood (O’Melveny & Myers LLP)	John L. Altieri, Jr. (O’Melveny & Myers LLP)
World Trade Center Properties LLC	Richard A. Williamson (Flemming, Zulack & Williamson, LLP)	M. Bradford Stein (Flemming, Zulack & Williamson, LLP)
Washington Metropolitan Airports Authority and the City of Portland	Mark A. Dombroff (Dombroff & Gilmore, P.C.)	Karen M. Berberich (Dombroff & Gilmore, P.C.)
The “Non-Carrier” Airlines Group	Richard P. Campell (Campell, Campell and Edwards)	Michael J. Crowley (Gallagher Gosseen Faller & Crowley)
Defendants’ Liaison Counsel (<u>ex officio</u>)	Desmond T. Barry, Jr. (Condon & Forsyth)	Christopher R. Christensen (Condon & Forsyth)

The function of the DEC, in consultation with the defendants' subcommittees described below, shall be to provide for communication and coordination among the defendants (with the exception of the United States and the terrorist defendants and alleged co-conspirators) with respect to, and, to the extent practicable, the overall management of all procedural, non-substantive aspects of the litigation. Because different categories of defendants (e.g., airline defendants, premises defendants, airport authorities, etc.) have divergent interests and are likely to take different positions with respect to various substantive issues, the defendants have established two subcommittees – an Aviation Defendants' Subcommittee and a Premises Defendants' Subcommittee – that are expected to be responsible for much of the substantive work that will be done by their members. The Aviation Defendants' Subcommittee shall be comprised of defendants such as the airlines, the airport security companies and the airport authorities; the Premises Defendants' Subcommittee shall be comprised of defendants such as the persons with a property interest in the World Trade Center, and the architects and engineers involved in the design and construction of the World Trade Center. Each defendant, except the terrorist defendants and alleged coconspirators, shall be represented on one of the two subcommittees (except the Port Authority of NY and NJ, which shall be represented on each subcommittee). The defendants anticipate that, as the litigation evolves, there may be a need to include additional defendants in the group of defendants represented by the DEC and the Defendants' Subcommittees, to alter the membership of the DEC and/or to establish additional defendant subcommittees to deal with specific issues or interests as they arise.

17. Notwithstanding the creation of the DEC and the provision for Defendants' Liaison Counsel, all defendants shall be entitled to notice and an opportunity to be heard through their counsel on all matters affecting them in the litigation. Additionally, defendants' agreement to serve on the DEC or to participate on a Defendants' Subcommittee does not constitute a waiver of any defendants' right to bring any claims of any kind.

18. The Defendants' Liaison Counsel shall periodically notify the Plaintiffs' Liaison Counsel of the names, addresses and telephone numbers of all plaintiffs' counsel who have filed additional actions hereafter commenced in or transferred to this Court after receipt of service of the complaint or transfer order, except for actions filed by law firms having members on the Plaintiffs' Executive Committee.

19. Service by defendants on plaintiffs of any papers shall be deemed to be complete for all purposes when such papers are served on Plaintiffs' Liaison Counsel, and courtesy copies shall be sent by mail to Plaintiffs' Executive Committee members, with one service per law firm being sufficient; or, if the papers are intended to apply only to a particular case or cases, then service by defendants shall be deemed to be effective and complete for all purposes when such papers are served on counsel of record for plaintiffs in said particular case or cases.

20. Service on the defendants of all liability and consolidated pleadings, papers and documents shall be effected by service upon Defendants' Liaison Counsel, except when an Order to Show Cause is being served or some expedited action or relief is being sought, counsel for all defendants in the actions shall be served.

21. Plaintiffs shall conduct consolidated liability discovery, and file consolidated motions, consolidated responses to motions, and consolidated replies, except when a motion applies only to a particular case or cases and does not raise issues common to other cases, the resolution of which would affect other cases.

22. To the extent possible, defendants likewise shall conduct consolidated liability discovery, and file consolidated motions (including but not limited to consolidated motions to dismiss), consolidated responses to motions, and consolidated replies, to the extent that the positions or interests of the various defendants do not diverge.

D. OTHER MATTERS

23. **Privileged Communications.** All communications between or among members of the Plaintiffs' Committees, Liaison Counsel, and/or any attorney for any plaintiff or claimant shall be deemed to be embraced by the attorney-client privilege and/or work product doctrine, if the privilege or doctrine is otherwise applicable, and all of said persons shall maintain the confidentiality of said communications.

24. This Order is provisional, subject to review as the lawsuits progress, and particularly before trials of any 21 MC 97 or 21 MC 101 cases.

SO ORDERED

Dated: New York, New York
March 2, 2005

ALVIN K. HELLERSTEIN
United States District Judge